Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING
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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 9, 2018

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 49.20-2-21

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M
Map Date: 3/29/2018 **Date Review Received:** 6/14/2018

Item: ***VICTOR EINHORN/13 RALPH BOULEVARD (R-2454A)***

Side yard, wall/fence setback and unencumbered lot area variances to allow the construction of a three-family dwelling with three accessory apartments on .3002 gross acres (.1729 net acres) in the R-15C zoning district. Variance were previously granted for front yard, front setback, rear setback and development coverage.

South side of Ralph Boulevard, 450 feet west of Jill Lane

Reason for Referral:

Villages of Kaser and Spring Valley

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***Disapprove**

1 The original ZBA application was referred to this department for review in 2014. At that time, we expressed concern that 28 percent of the site was constrained by the 100-year floodplain and a drainage easement. We recommended that the building footprint and the number of units be reduced. The current submission indicates that 85 percent of the lot area is within the 100-year floodplain and only 1990 SF is unencumbered. Given this almost five-fold discrepancy in the land area compromised by the 100-year floodplain, we recommend that these additional variances be denied. The proposal must be reevaluated based on this new information. The building footprint must be reduced and the accessory units eliminated.

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2 Pre-existing, non-conforming lots are given special consideration under Section 376-131 of the Town's Zoning Law. The bulk standards for several residential zoning districts are relaxed to accommodate the residential uses permitted by right in these zones. The net lot area of the subject site is 7,534 SF or almost 50 percent less than the minimum lot area required for a new three-family residence on a conforming parcel in the R-15C zoning district. Eighty-five percent of the land area is within the 100-year floodplain. The lot is further compromised by a 20-foot wide drainage easement that runs diagonally though the property. Due to the location of the drainage easement, an irregularly shaped building is proposed. Given that this site benefits from the application of Section 376-131, and is constrained by environmental features and a large drainage easement area, the proposed building footprint and the number of units shall be reduced.

3 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The ability of the existing infrastructure to accommodate increased residential density on undersized, nonconforming parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. The variances must not be granted. The building footprint and number of units shall be reduced.

The following comments address our additional concerns about this proposal.

4 The applicant's engineer uses the gross lot area to calculate the development coverage and the floor area ratio (FAR). In order to account for the environmental constraints, lot area deductions are required. The net lot area must be used to calculate the development coverage and FAR. This will result in the need for additional variances as the development coverage will increase to .90 and the FAR to 1.33. The calculations on the Layout Plan must be corrected, and a revised ZBA application submitted.

5 The limits of the 100-year floodplain must be delineated on the Layout Plan.

6 The engineer of record shall certify to the floodplain administrator for the Town of Ramapo that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency.

7 An updated review of the March 29, 2018 Layout Plan must be completed by the Rockland County Drainage Agency. In addition, the applicant must comply with the conditions of the Drainage Agency's letter of July 10, 2014

8 The Villages of Kaser and Spring Valley are the two reasons this proposal was referred to this department for review. The Kaser municipal boundary is along the southern property line of the site; the Spring Valley municipal boundary is 180 feet north of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Villages of Kaser and Spring Valley must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Villages of Kaser and Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

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9 A review must be done by the Rockland County Department of Health to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

10 An updated review of the March 29, 2018 Layout Plan must be completed by the Rockland County Sewer District #1, and all required permits obtained. In addition, the applicant must comply with the conditions of the Sewer District's letter of July 8, 2014.

11 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

12 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

13 It will difficult for vehicles parked in the southern spaces to maneuver out of the spots without a turnaround area. The proximity of the staircase and walkway is also a concern. The potential for traffic conflicts between pedestrians and vehicles is great. A resident descending the stairs will walk directly behind the vehicle parked in the southwestern space . A turnaround area must be provided so that vehicles do not have to back out into the roadway, and the stairs shall be re-oriented so that residents do not enter the parking lot so close to a parked vehicle.

14 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of $2,000 per day.

15 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

16 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.

Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
Rockland County Drainage Agency
Rockland County Sewer District #1
Federal Emergency Management Agency
Rockland County Department of Health

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New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Leonard Jackson Associates
Villages of Kaser and Spring Valley

Victor Einhorn

Mona Montal, Chief of Staff
Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.